

IDAHO Supreme Court

JUDICIAL/ADMINISTRATIVE NEWS

AUGUST 2004



Long-time Idaho Supreme Court Clerk Fred Lyon will take his love for motorcycles and enthusiasm for his favorite holiday, Halloween, back to Pocatello in January following his retirement.

Fred Lyon to Retire

For more than 20 years Fred Lyon has served as Clerk of the Idaho Supreme Court, performing vital administrative services for the judicial branch, scheduling the hundreds of cases that come to the Court every year, and issuing the opinions when cases are decided. But next January, he's going home, retiring from a job he has come to love.

Lyon has done his painstakingly detailed job, while maintaining a "commuter marriage" with his wife who has continued to live in Pocatello. He jokes that he is going to find out whether she can put up with him on a full-time basis.

"This has been a great job. I have really, really enjoyed it and, in many ways, I hate to leave, but after 22 years of commuting, it's time," Lyon said. "The time has come to spend more time with my wife, but I'm going to miss all the people I've dealt with."

Lyon said vast improvements in technology have allowed the Idaho court system to keep abreast of significant increases in case loads without major increases in personnel.

"When I started there were three people and me and we were handling 25 to 30 appeals per month. Now I have six people, and with the addition of the Idaho Court of Appeals (in the early 1980's) we now handle over a 100 cases per month," Lyon said.

Oregon journalist and one-time United States Senator Richard Neuberger wrote a national magazine article many years ago entitled – "They Never Go Back to Pocatello." Fred Lyon said it's not true. "Some might not admit it, but I'm going back."

Best of luck, Fred.

Judges' Benchguide and Clerks' Manual

The July 2004 update of the Judges' Benchguide and Clerk of the District Court Manual CD was mailed last month.

All court personnel should have received the CD to update the Benchguide/Clerks' Manual on your computer and/or on your court's server. Please contact Judge Castleton at 208-287-7493 or lcastleton@idcourts.net, or Sharon Burke at 208-947-7409 or sburke@isc.state.id.us if you have questions or if you have suggestions for the next update.

State-Federal Judicial Meeting Held

The Idaho State-Federal Judicial Council met in early June at the Idaho Supreme Court Building in Boise, with Chief Justice Linda Copple Trout presiding. All members of the Idaho Supreme Court and the Court of Appeals attended, as did U.S. Magistrate Judges Larry Boyle and Mikel Williams and bankruptcy judge Jim Pappas and federal court clerk Cameron Burke. Judge Stegner, as president of the District Judges Association, joined by telephone.

The judges reviewed a variety of joint issues including, the recent state-federal court media workshop, improvements in coordination of matters relating to "joint prisoners" and the U.S. Marshall's Service, mutual concerns about pro se matters, technology developments and the continuing work of the Committee on Federal-State Jurisdiction.

The U.S. District Court will host the next meeting of the Council in November.

State Bar Annual Meeting

The Idaho State Bar Association's annual meeting was held in Boise, July 14-16 and offered a variety of education programs, social events and award presentations.

M. Allyn Dingel, Jr. of Boise and John A. Rosholt of Twin Falls were presented with the Distinguished Lawyers award.

Allyn Dingel has practiced with the Boise law firm of Elam & Burke since 1967. Prior to that time, he served with the Office of the Idaho Attorney General as counsel for the Departments of Insurance and Finance and was chief criminal deputy. He is a founding member of the Idaho Law Foundation, Inc., and served as its vice president from 1976 to 1987. He is a member and former president of the Idaho Association of Defense Counsel, a fellow of the American College of Trial Lawyers and immediate past chair of the Idaho Code Commission. Mr. Dingel served as the lawyer representative and chairperson to the Ninth Circuit conference of the United States Courts from Idaho. Presently, he is a member of the House of Delegates of American Bar Foundation.

Mr. Dingel was born in 1936 in Twin Falls, Idaho. For many years he has been involved in numerous charitable organizations, including service on the board of directors of the St. Stephen's and St. Michael's Episcopal Diocese of Idaho. He has been involved with the Partners for Justice Project for many years and is credited with raising significant funds in support of the Partners effort.

John Rosholt practices with the Twin Falls law firm Barker, Rosholt & Simpson LLP. He has long been considered as one of Idaho's leading water lawyers and continues to serve clients in water-related matters involving the Snake River Basin Adjudication, Endangered Species Act, Clean Water Act, and federal and state legislative matters. He was a member of the University of Idaho College of Law Advisory Committee 1997-2000, and its chairman in 1999. He is a member of the College of Letters and Science Advisory Council and received the University's Jim Lyle Alumni Award in 2000. Mr. Rosholt currently serves on the Idaho Community Foundation Board.

Mr. Rosholt has an extraordinary history of service to his country, state, the community of Twin Falls, and the Idaho Bar. His nominations as distinguished lawyer include such comments as "He personifies what we genuinely need as a role model for unselfish commitment to his fellow citizens and the Bar."

John Rosholt was born in Lewiston, Idaho in 1937, and received a BA from the University of Idaho in 1959 and an LLB in 1964.

Other professional awards presented during the annual Bar gathering were **Service Awards** presented to Donald L. Harris, the Honorable James F. Judd, Robert D. Lewis, David Navarro, Zachary G. Parris, the Honorable Thomas Ryan, Trapper Stewart, and Colleen Zahn. Awards honoring 50-Year Attorneys were presented to Richard J. T.

Anderson, Elbert E. Gass, William T. Goodman, Thomas Joseph Jones III, Eli Rapaich, Eugene C. Thomas, and Harry B. Turner. The **65-Year Attorneys** honored were Glenn A. Coughlan and Richard H. Seeley.

The Bar Conference offered a variety of education programs that included an opportunity to earn CLE credits.

Among the programs were **"The Essentials of Professionalism,"** presented by Idaho College of Law Dean Don Burnett who discussed emerging issues in professionalism and ethics; **"The Mystery of Agreement: Noncompetes, Trade Secrets, and Business Documents,"** sponsored by the Business & Corporate Law Section; **"Law Firm Design, Strategy, and Deployment,"** sponsored by the Solo & Small Firm

Practice Section; and **"A Practical Primer for the Non-Health Care Lawyer – Health Care Update Including Startk II, Phase II,"** sponsored by the Health Law Section.

The conference also provided many opportunities to relax and enjoy the social events and entertainment that were part of the agenda. A social highlight was **"Dinner with Meriwether Lewis,"** featuring author and historian Clay Jenkinson, one of the most articulate public speakers in the country. Jenkinson brings a humanities perspective, including his education as a Rhodes Scholar to his presentations. His appearance was sponsored by the firm of Moffat Thomas Barrett Rock & Fields Chtd.



Chief Justice Linda Copple Trout and Twin Falls attorney John Rosholt share a laugh with Boise attorney, Allyn Dingel at the State Bar meeting.



A round-up of judicial personnel making news across Idaho

Judge Cockerille Sworn In

The Oath of Office Ceremony for new Boise County Magistrate Judge Roger E. Cockerille was held June 28 at the Boise County Courthouse in Idaho City.



Domestic Violence Conference Agenda Set

This year's fall Domestic Violence Conference, planned for judges and other professionals, will be held September 22-24, in Sun Valley. The faculty represents one of the largest groups of nationally recognized professionals in this field ever brought to an Idaho judge's conference.

In addition to researchers and practitioners in the general area of domestic violence, the conference will feature an Assistant General Counsel with the Federal Bureau of Investigation from Washington DC and Fanny Haslebach, who is a nationally recognized expert on federal firearms and ammunition prohibitions in domestic violence cases.

The conference also features the United States Supreme Court Annual Update from Professor Erwin Chemerinsky, who is moving this year from the University of Southern California faculty to a new appointment at Duke University School of Law.

For additional information on the conference, contact Senior Judge Lowell Castleton at 208-287-7493 (Ada County Chambers), or 208-371-9370 (cell phone), or via email: lcastleton@isc.state.id.us.



Idaho Drug Court Institute Held

Over 100 drug court team members from both adult and juvenile drug courts around the state convened in Boise, May 17-20 and joined another 500 substance abuse, health and criminal justice professionals for the joint Idaho Drug Court Institute and the 20th Annual Idaho Conference on Alcohol and Drug Dependency.

The Honorable Patrick Morris, Drug Court Judge in San Bernardino County, California and past President of the National Association of Drug Court Professionals, described the challenges facing drug courts as they work to become a mainstream element of the criminal justice system rather than an incidental practice.

A major component of the Drug Court Institute was the keynote address by Dr. Douglas Marlowe who provided a thorough review of the science and the detailed practices of behavioral interventions to change drug court participants' behavior both short-term and long-term. Dr. Marlowe pointed out that drug courts have established a strong track record as being at least twice as effective as traditional voluntary treatment services.

Dr. Lisa Najavits, Associate Professor of Psychiatry at the Harvard Medical School, presented a structured treatment program that addressed post-traumatic stress disorder and substance abuse.

In addition, over 60 individuals participated in an intensive workshop for drug court team members, especially new team members, presented by Norma Jaeger, Statewide Drug Court Coordinator. The Institute also provided a number of specialized workshops ranging from neuropharmacology to grant writing.

The Statewide Drug Court Coordinating Committee also held its spring meeting in conjunction with the Institute, providing an opportunity for professional cross training and continuing education for committee members.



Aloha Hella



Ciao

Hola

"Judicial Issue" of The Advocate Wins Award

The September 2003 issue of The Advocate, the journal of the Idaho State Bar Association, has been selected by The Advocate's editorial advisory board as the best issue of the last year.

The September edition, the "Judicial Issue" was commended by Ken Goldsmith, Director of State Legislation at the American Bar Association. "In my position, I review most every bar journal, perusing the pages for stories, even of seemingly local interest, that are of direct relevance to the bar as a whole. Accordingly, I felt compelled to stop to commend the staff and writers of this month's The Advocate for such an excellent issue."

A number of writers contributed articles to the September 2003 issue, including:

Viki Howard
Judge R. James Archibald
Krystal Schwanveldt
Pat Costello
Judge Daniel T. Eismann
Judge Daniel B. Meehl

Judge James R. Michaud
Judge John Varin
Sharon Burke
Judge N. Randy Smith
Carole Wesenberg
Judge Larry M. Boyle

The award was accepted by Chief Justice Linda Copple Trout on behalf of the contributors, who joined the Editorial Advisory Board in offering congratulations for the well deserved recognition.

Language Line Available

The State of Idaho has a contract with AT&T Language Line, which provides the ability to communicate in up to 144 different languages twenty-four hours per day. This option is now available to each county in your district. The customer charges range from \$2.20 up to \$4.50 per minute, depending on the language.

Since this is a state contract, no minimum charge or monthly charge will be assessed to the county. You are welcome to use this service at any time, but you are not required to use this service if the district chooses not to.

Please contact Corrie Keller at 208-334-2248 if you have questions or for detailed instructions.

Odds & Ends

Current Issue of the "Legislative Perspective" Available

The current issue of the "Legislative Perspective" is available on-line and includes the following stories: Citizens' Committee Makes Legislative Compensation Recommendation, Idaho Council on Indian Affairs Considers Education Issues, General Fund Budget Update, Legislative Audit Report, and more. Go to:
<http://www2.state.id.us/legislat/2004%20Interim/04july.pdf>.

Important Websites

-  **Idaho Supreme Court:** <http://www.isc.idaho.gov>
-  **Idaho State Law Library:** <http://www.isll.idaho.gov>
-  **Idaho State Bar:** <http://www.idaho.gov/isb>
-  **Court Assistance Offices:** <http://www2.state.id.us/cao>
-  **Idaho Law Foundation 2002 – 2003 Annual Report Online:** http://www2.state.id.us/isb/gen/ilf_info.htm#AnnRpt
-  **National Center for State Courts:** <http://www.ncsconline.org>

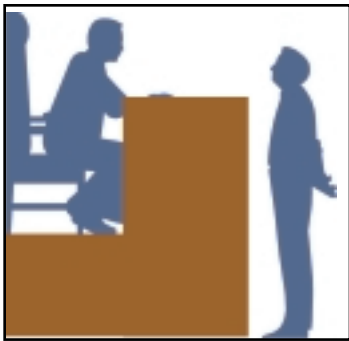


New Orders & Rule Changes



For current New Orders or Rule Changes, please visit:
<http://www.isc.idaho.gov/rulesamd.htm>

- ⚖ **The Misdemeanor Bail Bond Schedule set forth in M.C.R. 13** has been amended effective July 1, 2004. The bonds for the offenses of stalking, domestic assault or battery, and violation of a protection order in a domestic violence case have been deleted and these offenses now appear on the bond schedule with the statement that there is "no bond until court appearance." Previously, the rule provided for a bond and for the issuance of a no contact order as a condition of bond. Persons bonding out at the jail were given administrative no contact orders. This amendment eliminates these administrative no contact orders.
http://www.isc.idaho.gov/misd&infr_04.htm



- ⚖ **The Infraction Penalty Schedule set forth in I.I.R. 9(b)** has also been amended effective July 1, 2004, to effectuate new changes adopted by the legislature at its latest session. Senate Bill 1283 created two new infractions in the area of smoking in public buildings and offices. One infraction penalizes employers who knowingly or intentionally permit smoking in these areas and the other penalizes individuals who refuse to extinguish a tobacco product after they have been requested to do so. The penalties are set at \$100 for the employer and \$50 for the individual. This includes court costs. These two new infractions are numbers (35) and (36) on the schedule. The 2004 Filing Fee Schedule is the same as in 2003.
http://www.isc.idaho.gov/misd&infr_04.htm#INFR

- ⚖ **Amended Idaho Criminal Rule 46.2, No Contact Orders.** The Supreme Court recently amended this rule to add a new subsection (b), providing that a victim of a criminal offense for which a no contact order has been issued may request modification or termination of that order by filing a written and signed request with the clerk of the court in which the criminal offense is filed. The provision in the rule that a hearing on the request had to be provided within five days has been amended so that the hearing must be held within fourteen days. This new subsection (b) as amended was effective on July 1, 2004. The order is available on line at <http://www.isc.idaho.gov/ICR462b.htm>

- ⚖ **Family Law Information Sheet Now in Effect**
As of July 1, plaintiffs in family law cases are required to complete a family law case information sheet and file it along with the complaint or petition. The purpose of the sheet is to provide information that will enable the family case service coordinator and the judge to determine whether there are multiple issues and cases involving the family so that these cases can be coordinated, if directed by the judge.

This information allows for the possible assignment of one judge to handle all of the family's cases, and the coordination of decision-making so as to avoid conflicting or inconsistent orders. Since this sheet contains personal information, the rule provides that the sheet is exempt from disclosure under I.C.A.R. 32(d); thus, these information sheets are to be sealed and kept in the file in an envelope. One suggestion is to note on the envelope if "related cases have been identified."

For complete information:
http://www.isc.idaho.gov/rules/info_sheet.pdf

If you have questions please email cderden@isc.state.id.us or call 208-334-3867. Please help communicate this change to other interested parties.

TECHNOLOGY/ISTARS



Internet Pop-Ups

Those of us who rely on the Internet are now confronted by a new plague, spyware. Technically, spyware is not a virus, so our virus detection software is not effective. Instead, spyware are programs that are downloaded onto your computer so that your activity on the Internet can be tracked by private individuals or companies without your knowledge.

The way that most spyware is downloaded onto your computer is by having a pop-up advertisement or something that looks like a system alert, that asks you to answer yes or no, or to OK or cancel pop-up when you are on the

Internet. By answering YES, hitting OK, or even clicking on cancel you launch the downloading of the spyware onto your computer. Another way that spyware finds its way into your computer is with free illicit third party programs, such as screensavers, wallpaper programs, and download managers.

Because spyware is on your computer and is tracking all your incoming and outgoing activity on the Internet, spyware programs take up a certain amount of your computer's resources. What we are seeing are computers that have as many as 7 or more spyware programs running at the same time, literally overwhelming your computer's ability to do basic tasks like word processing or accessing e-mail.

Microsoft and other legitimate software vendors are developing software solutions to combat spyware. It is hoped that Microsoft will have a software patch that we can apply to our computers that will address this issue, without additional cost. Unfortunately, that patch is currently in beta-testing and is not available.

In the meantime, there is a way to deal with spyware. Simply click on the black X in the upper right hand corner of the pop-up to kill it. Responding in any other fashion will likely result in spyware being loaded on your computer.

For additional information, please contact James Fournier at 208-334-3868 or jfournier@isc.state.id.us.



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Justice Wayne L. Kidwell

Justice Daniel T. Eismann

Justice Roger S. Burdick

We are very interested in your news and information. If you have or are aware of items that should be featured in a future edition of Judicial/Administrative News please let us know!

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Thanks!



Note: For the most up-to-date Judicial Calendar,
check the Judiciary's homepage at
<http://www.isc.idaho.gov/calendar.htm>